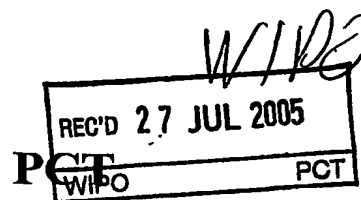


PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY



To:
ADE & COMPANY
1700 - 360 Main Street
WINNIPEG, Manitoba
Canada, R3C 3Z3

15/9

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

(PCT Rule 43bis.1)

Date of mailing 15 July 2005 (15-07-2005)
(day/month/year)

Applicant's or agent's file reference
85408-203

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/CA2005/000358

International filing date (day/month/year)
09 March 2005 (09-03-2005)

Priority date (day/month/year)
10 March 2004 (10-03-2004)

International Patent Classification (IPC) or both national classification and IPC
IPC: A61B 10/00, A47K 11/00, A47K 17/00

Applicant
WALMSLEY, JOHN

1. This opinion contains indications relating to the following items :

- | | |
|--|--|
| <input checked="" type="checkbox"/> Box No. I | Basis of the opinion |
| <input type="checkbox"/> Box No. II | Priority |
| <input type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI | Certain documents cited |
| <input type="checkbox"/> Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> Box No. VIII | Certain observations on the international application |

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/CA
Canadian Intellectual Property Office
Place du Portage I, C114 - 1st Floor, Box PCT
50 Victoria Street
Gatineau, Quebec K1A 0C9
Facsimile No.: 001(819)953-2476

Date of completion of this opinion
30 May 2005 (30-05-2005)

Authorized officer
Jamie Hayami (819) 934-2670

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/CA2005/000358

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

☒ the international application in the language in which it was filed

☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ on paper

☐ in electronic form

c. time of filing/furnishing

☐ contained in the international application as filed.

☐ filed together with the international application in electronic form

☐ furnished subsequently to this Authority for the purposes of search.

3 ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statement that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/CA2005/000358

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>2-6, 8-11</u>	YES
	Claims <u>1, 7</u>	NO
Inventive step (IS)	Claims <u>3-6, 9, 10</u>	YES
	Claims <u>1, 2, 7, 8, 11</u>	NO
Industrial applicability (IA)	Claims <u>1-11</u>	YES
	Claims <u>None</u>	NO

2. Citations and explanations :

The claimed invention relates to a stool sample collection device.

This opinion is formed based on the originally filed claims 1-11.

The following relevant documents appear in the International Search Report:

D1: US 2003/0021735 A1

D2: US 6,151,972

D1 discloses a biological specimen collection apparatus, which includes a receptacle for catching a biological specimen, and a support bracket for the receptacle which is adapted to be supported by a support structure such as a toilet bowl.

D2 discloses a urine sampling device comprising of an elongated trough member having a width substantially greater than its depth to define a generally pan-like trough, the trough member being fitted at a first end thereof with an attachment formation arranged to engage the rim of a toilet bowl such that, in use, the trough member extends at an angle below the horizontal such that the trough is oriented to intercept a stream of urine being passed by a patient seated on the bowl.

Novelty (N)

Claims 1 and 7 do not comply with PCT Article 33(2). D1 disclosed the claimed subject matter before the claim date.

In regards to independent claim 1, D1 discloses: In a toilet having a rim and a bowl, a stool sample collection device (see D1: page 1, paragraphs [0014] - [0016]) comprising:

- a sample collection platform arranged to receive a stool sample from a user (see D1: page 2, paragraphs [0016], [0019], [0020], and [0024] and Figures 1, 2 and 5); and
- an end wall extending from the sample collection platform at an angle to the sample collection platform (see D1: Figures 1, 2 and 5), said end wall including attachment means for attaching the device to the bowl of the toilet (see D1: paragraph [0021] and Figures 2, 4 and 5).

Therefore claim 1 is not novel in view of D1 and does not comply with PCT Article 33(2).

(See Supplemental Box)

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made :

Drawings

The description does not comply with PCT Rule 11.13(I). Reference signs not mentioned in the description shall not appear in the drawings, and vice versa. Reference numeral 104 (toilet bowl) mentioned throughout the description does not appear in the drawings.

The drawings do not comply with PCT Rule 11.13(I). The same features, when denoted by reference signs, shall, throughout the entire application, be denoted by the same signs. In figure 7, one of the reference numeral 2s should be 40. In figure 14, reference numeral 234 should be 236, as well reference numeral 232 should be 234.

Description Informalities

The description does not comply with PCT Article 5. A statement in an application, such as found on page 4, line 12 which incorporates by reference any other document, does not comply with PCT Article 5. The description should be complete in and of itself. A person skilled in the art should be able to understand the patent specification without reference to any other document.

Indefiniteness

Claim 7 is indefinite and does not comply with PCT Article 6. The inclusion of "and/or" causes ambiguity.

Claims

The technical features mentioned in claims 1-11 should be followed by the reference signs relating to such features to facilitate in quicker understanding of the claims (Rule 6.2(b) PCT).

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: V

In regards to independent claim 7, D1 discloses: In a toilet having a rim and a bowl, a urine and/or stool sample collection device (see D1: page 1, paragraphs [0014] - [0016]) comprising:

- a receptacle having a cup arranged to receive urine (see D1: page 2, paragraph [0024];
- a sample collection platform arranged to receive a stool sample from a user (see D1: page 2, paragraphs [0016], [0019], [0020], and [0024] and Figures 1, 2 and 5), said platform including an opening for inserting the cup therein (see D1, page 2, paragraphs [0019] and [0024]; and
- an end wall extending from the sample collection platform at a right angle to the sample collection platform (see D1: Figures 1, 2 and 5), said end wall including attachment means for attaching the device to the bowl of the toilet (see D1: paragraph [0021] and Figures 2, 4 and 5).

Therefore claim 7 is not novel in view of D1 and does not comply with PCT Article 33(2).

Claims 2-6 and 8-11 are novel and do comply with PCT Article 33(2) as D1 does not disclose explicitly a stool sample collection device where the sample collection platform has a substantially concave shape; wherein the attachment means comprises suction cups; wherein the platform includes a plurality of apertures; wherein the device includes one slot on the platform proximal to the end wall and at least one ring inserted through said slot; and wherein the cup includes a spout extending upwardly from the cup at an acute angle.

Inventive Step (IS)

Claims 1 and 7 do not comply with PCT Article 33(3) as they do not define any new matter beyond the teaching of D1, and therefore cannot be viewed as involving an inventive step (see above arguments with respect to novelty).

Claims 2, 8 and 11 do not comply with PCT Article 33(3). The subject matter of these claims would have been obvious to a person skilled in the art are science to which they pertain, having regard to D1 in view of D2.

Dependent claims 2 and 8 add that the sample collection platform has a substantially concave shape, which is obvious according to D2 (see D2: column 2, lines 7-14 and Figure 3). Therefore, claims 2 and 8 do not involve an inventive step having regard to D1 in view of D2 (PCT Article 33(3)).

Dependent claim 11 adds that the cup includes a spout extending upwardly from the cup at an acute angle, which is obvious from D2 (see D2: column 2, lines 23-35 and Figures 1 and 2). Therefore, claim 11 does not involve an inventive step having regard to D1 in view of D2 (PCT Article 33(3)).

Claims 3-6, 9 and 10 comply with PCT Article 33(3). The subject matter of claims 3-6, 9 and 10 are considered to involve an inventive step since, having regard to the prior art, they are not obvious to a person skilled in the art.

Industrial Applicability (IA)

The subject matter of claims 1-11 are considered to be industrially applicable and thus fulfill the requirements of PCT Article 33(4).